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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/542,763  | 01/17/2006  | Oleg Stenzel         | 274674US0PCT        | 9218             |
| 22850 7590 12/09/2009<br>OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.<br>1940 DUKE STREET<br>ALEXANDRIA, VA 22314 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| PARVINI, PEGAH  |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 1793  |             |                      |                     |                  |
| NOTIFICATION DATE   |             | DELIVERY MODE        |                     |                  |
| 12/09/2009  |             | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* OLEG STENZEL, ANKE BLUME,  
HANS-DETLEF LUGINSLAND,  
STEFAN UHRLANDT, and  
ANDRE WEHMEIER

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Application No. 10/542,763  
Technology Center 1700

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Mailed: December 8, 2009

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Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 7, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S ANSWER

GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed July 24, 2009 under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that it is unclear what rejected claims are on appeal as compared to the Appeal Brief and/or the Examiner's Answer does not clearly address differences between rejections set forth in the Examiner's Answer and those addressed in the brief.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

Accordingly, it is ORDERED that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed July 24, 2009;
- 2) to generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;
- 3) and to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and
- 4) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/dal/

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